




U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530
September 11, 2000

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Robert Raben 
Assistant Attorney General

SUBJECT: Weekly Report for September 11, 2000 - September 15, 2000

THE WEEK AHEAD

Campaign Finance: The Department will continue to work with all staff in responding to pending document requests. It still appears that Senator Specter will wait until after the November election to issue a comprehensive report covering campaign finance, Peter Lee, and an update on Wen Ho Lee. No new campaign finance hearings are anticipated at this time. (Walter)

We are continuing to discuss with House Government Reform Committee (Burton, Chair) staff their subpoena for internal memoranda relating to the Attorney General's decision not to appoint a special counsel to investigate allegations of false statements by Vice President Gore. (Tanner)

We are continuing to discuss with House Government Reform Committee staff their subpoena for internal e-mail messages relating to the Attorney General's decision not to appoint independent counsel to investigate allegations of various campaign finance matters. (Tanner)

Loral: A draft letter from District of Columbia U.S. Attorney Wilma Lewis was sent to the Department for clearance; third agency documents are in the process of being reviewed for release to the Senate Judiciary Committee. (Walter)

Wen Ho Lee: Senate Judiciary Committee staff and Intelligence Committee staff were advised on Sunday, September 10, of the pending plea agreement in this case. Staff from the Senate Intelligence Committee (Shelby) and the Senate Energy Committee (Murkowski and Bingaman) have called requesting briefings. Senator Specter announced on the Senate floor on September 11 his intent to hold a hearing and his staff have indicated his intent to obtain all documents related to the case. Staff of all interested committees will be sent copies of the plea agreement after it is filed with the court. (Walter)

Intelligence Committees: Senate Intelligence (Shelby, Chair) attempted to hotline the Intelligence Authorization bill (which contains the leak prosecution provision, among others) but a hold was put on it by Senator Moynihan in order to attach his declassification board bill (which Representative Goss has introduced in the House). Staff from both the House and Senate have requested briefings on several subjects, including FISA, Pan Am 103, drug kingpin legislation, and other matters; scheduling of these briefings is in progress. (Walter)

FISA: Draft language to fix text in the FISA amendments that passed Senate Judiciary and Intelligence was sent over to the Department for approval; Senate Intelligence has asked to see drafts of the reports they requested as a condition for revising the funding fence-off language from the bill. (Walter)

Preparedness Against Terrorism Act: On September 11, the Office of Legislative Affairs and the Federal Bureau of Investigation will be meeting with majority staff for Senate Environment and Public Works (Smith, Chair) to discuss H.R. 4210, the "Preparedness Against Terrorism Act." The Administration, the Department and the Bureau are opposed to this bill. (Daley)

Meeting about Gun Prosecutions in Baltimore: On September 11, representatives of the Office of the Deputy Attorney General, the Executive Office for U.S. Attorneys and the Office of Legislative Affairs will meet with staff of Chairman Hyde and Congressman McCollum concerning gun prosecutions in Baltimore. (Graupensperger)

Waco: We have advised staff for the House Government Reform Committee (Burton, Chair) that the Department will take no position on the staff request to interview two line attorneys in the U.S. Attorney's Office in the Western District of Texas, [REDACTED] and [REDACTED], both of whom are represented by private counsel in connection with the investigation by the Special Counsel. Staff also have indicated that they may hold a hearing on Waco during the next four weeks if they are unable to interview the Attorney General. Our document production to the Committee is almost completed. (Burton)

FOIA EXEMPTION (b)(7)(D)

Inspector General Report on ICITAP: We expect that the Inspector General's Report in allegations of misconduct in the operations of this Program will be transmitted to several congressional committees today and that, shortly thereafter, some of the information from the report will become public. We are working with the Criminal Division and others in the Department to prepare for congressional inquiries that are likely to follow. (Burton)

Telecom Mergers: The House Commerce Committee (Bliley, Chair) held a hearing on September 7 on telecommunications mergers involving foreign government ownership of U.S. telecommunications companies. Deputy Assistant Attorney General Kevin DiGregory from the Criminal Division and Federal Bureau of Investigation General Counsel Larry Parkinson testified. Follow-up questions to the Antitrust Division were sent by Chairman Tauzin.

The Department continues to work with House and Senate staff contacts on pending legislation (S. 467 [DeWine/Kohl] and H.R. 4019 [Pickering/Tauzin]), and on the pending telecom merger bills that would prohibit mergers of a U.S. telecom company with a company with more than 25 percent foreign government ownership (S.2793 [Hollings] and H.R. 4903 [Dingell/Markey]). A briefing for House Intelligence Committee (Goss, Chair) staff on the Department's and Bureau's law enforcement and national security interests in these bills is tentatively set for September 15. (Walter)

Hate Crimes: Plans are underway for the Minority (Congressman Barney Frank) to offer a motion to instruct the conferees to keep the hate crimes language in the Defense Authorization bill. This motion may occur this week. (Soott-Finan)

Federal Prisoner Co-Pay: We anticipate that H.R. 1349, the Federal Prisoner Health Care Co-payment Act, will be taken up by the House this week under suspension of the rules and pass. (Scott-Finan)

Electronic Privacy: On September 6, the House Judiciary Committee's Subcommittee on the Constitution (Canady, Chair) held a hearing on H.R. 5018 and H.R. 4987, legislation concerning electronic privacy. The Department was represented by Kevin DiGregory, Deputy Assistant Attorney General, Criminal Division and David Green, Principal Chief of Computer Crime and Intellectual Property Section.

In addition to meeting with House Judiciary Subcommittee on the Constitution staff prior to the Wednesday hearing on the electronic privacy bills, the Office of Legislative Affairs and the Computer Crime and Intellectual Property Section met with staff, the Office of Management and Budget and outside groups on September 8. A follow-up meeting is scheduled for September 12. The Department continues to oppose both bills and expects that the Departments of Treasury and Defense will share our view and begin to attend meetings on the Hill. (Daley)

Environment: On September 12, Environment and Natural Resources Division Assistant Attorney General Lois J. Schiffer will testify before the Senate Committee on the Environment and Public Works (Smith, Chair) on proposed environmental regulations by the Department of Transportation. (Pearlman)

Law Enforcement and Extradition Treaties: On September 12, the Senate Foreign Relations Committee (Helms, Chair) will hold a hearing on pending treaties. Criminal Division Deputy Assistant Attorney General Bruce Swartz is scheduled to testify. Senator Grams will preside. (Walter)

Radiation Exposure Compensation Act: On September 12, staff from the Justice Management Division, Civil Division, and the Office of Legislative Affairs are meeting with staff from the Senate Budget Committee (Domenici, Chair) to discuss the possibility of making RECA funding a permanent and indefinite appropriation. On September 14, we will be meeting with staff from Senator Daschle and Senator Hatch's office to discuss making technical amendments to the program, as well as funding issues. (Pearlman/Daley)

Native Hawaiian Self-Governance Hearing: On September 13, the Senate Indian Affairs Committee (Campbell, Chair) will hold a hearing on S.2899/H.R.4904, which are identical bills which would clarify the political and legal relationship between the Federal Government and the Native Hawaiians as well as create a Native Hawaiian self-governing body. Jacqueline Agtuca, Acting Director of the Office of Tribal Justice, will testify on behalf of the Department. (Ho)

Nominations: On September 8, the Senate confirmed the nomination of Norman C. Bay, to be a United States Attorney for the District of New Mexico.

On September 13, the Senate Governmental Affairs Committee (Thompson, Chair) is expected to hold a hearing on D.C. Superior Court nominees. The agenda has not been released. (Scott-Finan)

Compensation Programs for Employees in Nuclear Weapons Programs: On September 14, the House Judiciary Subcommittee on Immigration and Claims (Smith, Chair) will hold a hearing on several bills that would provide compensation to workers in Department of Energy nuclear weapons programs, who subsequently contracted certain cancers. One of the bills, H.R. 3495, would place responsibility for administering the program with the Department of Justice. We anticipate the Secretary Richardson may take the lead in testifying for the Administration, while the Department and other impacted agencies will send a witness to answer Subcommittee questions. (Pearlman/Burton)

Takings: On September 14, the Senate Judiciary Committee (Hatch, Chair) may mark up S. 1028, the "Citizens Access to Justice Act of 1999." You have stated in our views letter that you would recommend the President veto the legislation in its current form. (Pearlman)

Use of Social Security Numbers: We anticipate the House Ways and Means Committee (Archer, Chair) will mark up H.R. 4857, legislation regarding the use of social security numbers, on September 14. (Owen)

THE WEEK IN REVIEW

Application of the Privacy Act to the White House: On September 8, Office of Legal Counsel Deputy Assistant Attorney General William Treanor testified before the House Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources (Mica, Chair) about the Department's long-standing legal position that the Privacy Act does not apply to the Office of the White House. Full Committee Chairman Burton and Representative Barr questioned Mr. Treanor at length about this view and we may receive follow-up questions to complete the hearing record. Mr. Treanor was followed by a panel of witnesses, including Professor Jonathan Turley of George Washington University Law School and Mr. Larry Klayman of Judicial Watch, who opined that the statute already applies or should apply to the White House. We are unaware of any pending legislation on this subject at this time. (Burton)

Counterfeit Currency Briefing: On September 8, representatives of the Criminal Division and the Office of Legislative Affairs joined representatives of the Secret Service in briefing House Banking Committee Chairman Leach about issues relating to counterfeit currency. (Graupensperger)

Apprendi: On September 7, representatives of the Criminal Division, Office of Legal Counsel, Executive Office for U.S. Attorneys and the Office of Legislative Affairs provided a briefing to House and Senate staff on the Supreme Court decision in Apprendi v. New Jersey. There, the Court held that the 6th amendment bars judges from sentencing defendants above the statutory maximum sentence based on evidence and facts that were not part of a criminal indictment and were not considered by the jury. (Tanner)

Carnivore: On September 6, the Senate Judiciary Committee (Hatch, Chair) held a hearing entitled "The Carnivore Controversy: Electronic Surveillance and Privacy in the Digital Age." The Department was represented by Kevin DiGregory, Deputy Assistant Attorney General, Criminal Division and Marty Stansell-Gamm, Chief of the Computer Crime and Intellectual Property Section. (Daley)

False Claims Act: On September 6, staff from the Civil Division, Criminal Division, and the Office of Legislative Affairs met with staff from the House Budget Committee (Kasich, Chair) to educate the Committee about the factors we consider when deciding whether to bring a false claims act case, and in some situations criminal charges, against nursing homes and other health care providers. (Pearlman)

Authorized Distributors: On September 6, representatives of the Civil Division, Office of Legislative Affairs and the Food and Drug Administration met with the staffs of Representatives Emerson, Berry and Frank concerning H.R. 4301, a bill to restrict record keeping requirements for certain wholesale distributors of prescription medicines. We have opposed previous efforts to widen existing loopholes which limit our ability to document diversion of such medicines. (Tanner)

Cameras in Federal Courtrooms: On September 6, representatives of the Office of Legislative Affairs attended a hearing on the use of cameras in the federal courtrooms. No administration witnesses testified. The Administrative Office of the United States Courts opposes cameras in federal courtrooms. (Owen)

McDonnell-Douglas: In a motions hearing in this case on September 5, House of Representatives General Counsel, on behalf of GAO, requested and was granted a two week extension of time to intervene in this case to prevent disclosure to the defense of certain witness statements GAO voluntarily turned over to the office of the U.S. Attorney's office for the District of Columbia. (Walter)

Counterfeit Bulk Pharmaceuticals: Justice Civil/Office of Consumer Litigation and Criminal divisions met on August 31 with House Commerce (majority and minority) to discuss the importation of "counterfeit" bulk pharmaceuticals, including drugs that are improperly made, and the importation of improperly made, or counterfeit component chemicals. This was an informal briefing. The Department is currently preparing a letter to Chairman Bliley on this topic. (Owen)